

LT. COLONEL ROBERT C. ROBERT BEARDEN
JOE HOLCOMBE vs UNITED STATES

January 16, 2020

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IN THE UNITED STATES DISTRICT FOR
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOE HOLCOMBE, et al.,	)	NO. 5:18-CV-00555-XR
)	
	)	Consolidated with:
Plaintiffs,	)	5:18-cv-00712-XR (Vidal)
	)	5:18-cv-00881-XR (Uhl)
	)	5:18-cv-00944-XR (Ramsey)
vs.	)	5:18-cv-00949-XR (McNulty)
)	
	)	5:18-cv-00951-XR (Wall)
UNITED STATES OF	)	5:18-cv-01151-XR (Amador)
AMERICA,	)	5:19-cv-00184-XR (Brown)
	)	5:19-cv-00289-XR (Ward)
	)	5:19-cv-00506-XR (Workman)
Defendant.	)	5:19-cv-00678-XR (Colbath)
	)	5:19-cv-00691-XR (Braden)
	)	5:19-cv-00706-XR (Lookingbill)
	)	5:19-cv-00714-XR (Solis)
	)	5:19-cv-00715-XR (McKenzie)
	)	5:19-cv-00805-XR (Curnow)
	)	5:19-cv-00806-XR (Macias)

VIDEOTAPED DEPOSITION OF

LIEUTENANT COLONEL ROBERT C. BEARDEN

PURSUANT TO NOTICE, the above-entitled deposition was taken on behalf of the Plaintiffs at Peterson Air Force Base, 135 Dover Street, Building 350, Suite 2068, Colorado Springs, Colorado, on January 16, 2020, at 3:15 p.m., before Dawn Gage, a Professional Court Reporter and Notary Public within and for the State of Colorado.

PEX 0087-0001

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13 LIEUTENANT COLONEL ROBERT C. BEARDEN,
14 having been first duly sworn according to law, was
15 examined and testified under oath as follows:

16 EXAMINATION

17 BY MR. ALSAFFAR:

18 Q. Good afternoon, Colonel. How are you 03:16
19 doing? 03:16

20 A. Good, thanks. 03:16

21 Q. My name is Jamal Alsaffar. And we just 03:16
22 met today, didn't we? 03:16

23 A. Yes. 03:16

PEX 0087-0002

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21 First of all, you just took an oath. And I 03:17
22 know we're sitting in a conference room, but I want 03:17
23 to make sure you understand the importance and
24 weight of that oath. 03:17
25 A. Yes. **PEX 0087-0003** 03:17

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1 Q. You understand that the oath that you 03:17
2 just took is the same oath that you would have taken 03:17
3 if we were in a court of law before a judge and jury 03:17
4 with the same penalties of perjury if you don't tell 03:17
5 the truth; do you understand that?

6 A. Correct, yes. 03:17

7 Q. Okay. And you're prepared to tell the 03:17
8 whole truth as you know it, under oath today, 03:17
9 correct? 03:17

10 A. Yes. 03:17

PEX 0087-0004

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15 Q. Okay. Colonel, can you tell us what 03:26
16 your current employment situation is with the Air 03:26
17 Force? 03:26
18 A. So, I'm the Vice Commander in the 10th 03:26
19 Air Base Wing at the United States Air Force 03:26
20 Academy. 03:26
21 Q. How long have you been there? 03:26
22 A. About 18 months. 03:26
23 Q. All right. And can you tell us what 03:26
24 time period you were stationed at Holloman Air Force 03:26
25 Base in New Mexico?

PEX 0087-0005 03:27

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1 A. Sure. I was there from June of 2012 to 03:27
2 June of 2014. 03:27

3 Q. And what was your position while you 03:27
4 were at Holloman Air Force Base from June of 2012 to 03:27
5 June of 2014? 03:27

6 A. Correct. I was the commander of the 03:27
7 49th logistics readiness squadron. 03:27

8 Q. All right. And how would you describe 03:27
9 your job duties and responsibility as commander of 03:27
10 the Logistics Readiness Squadron at the 49th? 03:27

11 A. All right. So, I was responsible for 03:27
12 the morale, health, welfare of that unit. And that 03:27
13 unit -- that unit's mission, which was to provide 03:27
14 logistics support to the 49th Wing and it's units. 03:27

PEX 0087-0006

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15 First of all, while you were squadron -- 03:32
16 excuse me, while you were the commander of the LRS 03:32
17 49th division at Holloman Air Force Base, you 03:32
18 were -- you were at all times, a federal employee of 03:32
19 the federal government, correct? 03:32
20 A. Correct. 03:32
21 Q. And while you were a commander at 03:32
22 Holloman Air Force Base, you were working within the 03:32
23 course and scope of your employment for the federal
24 government, correct? 03:32
25 MR. FURMAN: Objection; legal conclusion. 03:32

PEX 0087-0007

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25

1 You can answer.

2 MR. ALSAFFAR: You can answer.

03:32

3 A. Yes.

03:32

22 Now, can you tell -- can you give me your
23 understanding of why you're testifying today?

03:33

03:33

24 A. So, Airman Devin Kelley was assigned to
25 my unit subsequent to his service in the 1st Force

03:33

03:33

PEX 0087-0008

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1	He committed some heinous crimes.	03:33
2	And now, you know, the various survivors and	03:33
3	families of those that were killed and injured are	03:33
4	suing in a civil proceeding for damages.	03:33
5	And being that I was his commander at the	03:33
6	time you-all are interested in, I'm sure, how I	03:33
7	handled that, what I did and why I did it.	03:34

PEX 0087-0009

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22 Q. Okay. Did you have any -- did you have 03:35
23 a memory of Devin Kelley when you heard about this 03:35
24 shooting? 03:35
25 A. I did. So, I -- I remembered seeing him. 03:35

PEX 0087-0010

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1 in our holding cell there at Holloman. And I 03:35
2 remembered seeing him when he came back from prison 03:36
3 at Mira Mar and did, I guess, what you would call, 03:36
4 you know, the final exit interview with me. It was 03:36
5 my final chance to talk to him before he was 03:36
6 released from the Air Force. 03:36

7 Q. And I just want to make sure that the 03:36
8 record is clear is that, you remembered specifically 03:36
9 meeting in person with Devin Kelley at the holding 03:36
10 cell in Holloman Air Force Base in 2012? 03:36

11 A. That's correct. 03:36

12 Q. And you also remember meeting personally 03:36
13 with Devin Kelley when he was -- when he served -- 03:36
14 finished out his prison sentence at Mira Mar and was 03:36
15 returned back to Holloman Air Force Base for 03:36
16 out-processing; is that -- 03:36

17 A. That's correct. 03:36

PEX 0087-0011

13 Q. And when you say, Read these charges to 03:40
14 him, you're talking about the point at which he was 03:40
15 indicted with charges, but yet to be tried of those 03:40
16 charges? 03:40
17 A. That's correct, yes. So I had to -- 03:40
18 they gave me -- it's, essentially, a script that I 03:40
19 had to read to him saying, Hey, you're being charged 03:40
20 with the following. We had to sign it. And then, 03:40
21 you know, his court-martial followed those charges. 03:40

PEX 0087-0012

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21 Q. And I thank you for that. 03:44
22 So when -- so at that point when you were 03:44
23 meeting with Devin Kelley the first time, shortly 03:44
24 after June 30, 2012, you, as the commander of the 03:44
25 49th LRS at that point had reasonable grounds to 03:44

PEX 0087-0013

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1 believe that he had committed those offenses charged
2 against him and you were -- you-all were getting
3 ready for the trial?

03:44

03:44

4 A. That's correct.

03:44

PEX 0087-0014

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8 So, I think, generally, what you're telling
9 me is Tracy Wolfe communicated to you in some
10 fashion that, Hey, Colonel, you need to know, this
11 person, Devin Kelley. Was -- I believe you said
12 someone who made threats against the unit, and we
13 need to take precautions to protect the people in
14 our unit from Devin Kelley?

15 A. For clarity, he did do that when Airman
16 Kelley was coming back from Mira Mar.

17 Q. Okay.

18 A. And so you-all have a memo that I signed
19 asking for some specific debarment things and that
20 kind of thing.

21 So that's when he -- he told me, Hey -- I
22 remember for sure then, that he told me, Hey,
23 this -- this guy has threatened the unit before,
24 that kind of thing. I don't remember him telling me
25 anything like that shortly after my change of

03:49

03:49

03:49

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PEX 0087-0015

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1

command.

03:50

PEX 0087-0016

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6 Okay. And, 03:58

7 Colonel Bearden -- is Exhibit No. 3, correct? 03:58

8 A. That's correct. 03:58

9 Q. Is Exhibit No. 3 a -- a fair and 03:58

10 accurate representation of the statement that you 03:58

11 gave to the DoD IG investigators? 03:59

12 A. It is. 03:59

PEX 0087-0017

8 Q. Okay. Thank you for that. I notice on 03:59
9 Page 2 of your statement, Exhibit No. 3, you clarify
10 for the DoD IG that the threats that you had, been 04:00
11 informed about Kelley were of an 04:00
12 active-shooter-type-threat -- 04:00

13 A. Yes, sir.

14 Q. -- do you see that? That is an accurate 04:00
15 representation of what you told them? 04:00

16 A. Yes, sir. So, the -- you know, as I was 04:00
17 mentioning a minute ago, you know, the First 04:00
18 Sergeant prior to Kelley's return said he had made 04:00
19 threats about shooting up the unit and leadership. 04:00

20 So it wouldn't surprise me that when I was 04:00
21 talking to them, I'd used that language, an 04:00
22 active-shooter-type incident. 04:00

23 Q. And so, when we're talking about him, 04:00
24 this time frame in 2012 when you were at the command 04:00
25 LRS 49th when you were describing the threat that -- 04:00

PEX 0087-0018

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1	Devin Kelley had made were of an active-shooter	04:00
2	type, we're talking about a mass-shooting-type	04:00
3	threat that he was making to the unit?	04:00
4	A. Right. So the First Sergeant had	04:00
5	advised me that he had made threats of shooting, you	04:00
6	know, leadership and the implication was, you know,	04:01
7	not against one person, multiple individuals, which	04:01
8	I think is to your point.	04:01

PEX 0087-0019

5 Q. Okay. So when -- from the time that 04:02
6 you -- whatever the time frame you were made aware 04:02
7 of these specific threats of Devin Kelley, that 04:02
8 Devin Kelley was making against the unit, these 04:02
9 active-shooter, mass-shooting-type threats, 04:02
10 certainly, by the end of March 2013, you were aware 04:02
11 that Devin Kelley was a very dangerous person who 04:02
12 was threatening to kill multiple people with guns, 04:02
13 correct? 04:02

14 A. That's correct. 04:02

PEX 0087-0020

18 So, at that time, March 2013, as the 04:03
19 commander of the 49th LRS at Holloman, you -- you 04:04
20 knew specifically that Devin Kelley proposed an 04:04
21 increased risk of harm to people in your unit at the 04:04
22 base? 04:04
23 A. That's -- 04:04

PEX 0087-0021

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1

A. That's correct.

04:04

PEX 0087-0022

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24 Q. Okay. So you had an escort, which is 04:13
25 typical. And then you had a -- specifically in January 04:13

PEX 0087-0023

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1	armed guard from the 49th Security Forces also	04:13
2	present, which is atypical for Devin Kelley? You	04:13
3	had that for Devin Kelley?	04:13
4	A. Yes, sir.	04:13

PEX 0087-0024

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5 Q. Okay. I'm going to hand you 04:16

6 Exhibit No. 7. 04:16

7 (Deposition Exhibit 7 was marked for
8 identification.)

9 A. Thank you.

10 Q. (By Mr. Alsaffar) Exhibit -- you're 04:16

11 welcome. Exhibit No. 7, Colonel, is marked USA 04:16

12 14794; do you see that at the bottom right? 04:16

13 A. Yes. 04:16

PEX 0087-0025

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4 Q. Okay? All right. So if you look at 04:17
5 this June 15, 2011, memorandum, do you see at the 04:17
6 top, it says it's "For 49 Logistics Readiness 04:17
7 Squadron," do you see that? 04:17

8 A. Yes, sir. 04:17

9 Q. And do you see at the top, there's a -- 04:17
10 it looks like an initial-type signature? And I 04:17
11 think it says August 2011 -- 04:17

12 A. Correct.

PEX 0087-0026

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3 Q. All right. So whoever the First 04:17
4 Sergeant was at the time of August 2011, when we see 04:17
5 a diamond like that with a signature, that means 04:18
6 some First Sergeant has received the document, 04:18
7 signed it, seen the document? 04:18

8 A. I think that's a reasonable conclusion. 04:18

9 Q. Okay. So going back to the actual 04:18
10 document, it's for the 49th Logistics Readiness 04:18
11 Squadron, which was the squadron that you were 04:18
12 commander of in the time period June 2012 through 04:18
13 2014, correct? 04:18

14 A. That's correct. 04:18

15 Q. That's your squadron. And this is from 04:18
16 AFOSI, Detachment 225, right? 04:18

17 A. Correct. 04:18

18 Q. Now, tell me, just -- just for the 04:18
19 record, what's AFOSI Detachment 225? 04:18

20 A. That's the Air Force Office of Special 04:18
21 Investigations at Holloman Air Force Base. 04:18

22 Q. All right. And the -- the AFOSI, those 04:18
23 are the -- the agents on base who investigate airmen 04:18
24 and air women who are involved in possible criminal 04:18
25 acts, correct? 04:18

PEX 0087-0027

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1 A. Correct. 04:18

2 Q. Okay. And so this notification is from 04:18

3 James Hoy, Special Agent, Superintendent of 04:18

4 Detachment 20 -- 225, correct? 04:18

5 A. Correct. 04:18

6 Q. And, essentially, what this document 04:19

7 is -- is telling you, is as of June 15, 2011, it's 04:19

8 telling the 49th LRS at Holloman -- Holloman Air 04:19

9 Force Base that one of your airmen in your command 04:19

10 in -- in the LRS Squadron, Devin Kelley, is being 04:19

11 investigated for criminal -- potential criminal 04:19

12 conduct, correct? 04:19

13 A. That's correct, but I'd like to offer
14 some clarity. 04:19

15 Q. Please. 04:19

16 A. So, it's -- it's notifying the squadron 04:19

17 commander at the time that one of the airmen in his 04:19

18 command --

19 Q. Right.

20 A. -- is being investigated; I wasn't 04:19

21 there. 04:19

22 Q. And, at this time, June 15th, 2011, 04:19

23 would this be Lieutenant Colonel Marconi was the

24 commander of the LRS 49th at that time? 04:19

25 A. That's correct.

PEX 0087-0028 04:19

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1 Q. All right. And then you were in his
2 position, June 2012 to June 2014?

04:19

04:19

3 A. That's correct.

04:19

PEX 0087-0029

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1 Q. -- unless you do or others do, so that's 04:20
2 helpful. 04:20

3 I guess my -- just the bottom line here is 04:20
4 the 49th Logistics Readiness Squadron was being 04:20
5 informed and it's been received, that as of June 15, 04:20
6 2011, Devin Kelley is being investigated by the 04:20
7 AFOSI Detachment 20 -- 225 for potential criminal 04:21
8 conduct? 04:21

9 A. That is correct. 04:21

PEX 0087-0030

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4 Q. (By Mr. Alsaffar) Now, Exhibit No. 8 is 04:22
5 a memorandum for 49 LRS/CC, and does that stand for 04:22
6 49th Logistics Readiness Squadron command? 04:22

7 A. Commander, yes, sir. 04:22

8 Q. Okay. And it's dated October 21st, 04:22
9 2011, correct? 04:22

10 A. Correct. 04:22

25 So this is an elect- -- this is a PEX 0087-0031 04:23

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1 October 21st, 2011, letter is signed by Commander 04:23
2 Marconi -- signed on -- on the same day, 04:23
3 October 21st, 2011, correct? 04:23

4 A. Correct. 04:23

5 Q. Okay. And this is a letter that was 04:23
6 sent from the 49th WG/CV, correct? 04:23

7 A. That's correct. 04:23

8 Q. And tell me what that is. 04:23

9 A. That is the 49th Wing Vice Commander. 04:23

10 Q. And I believe you told me early in the 04:23
11 deposition that that's a level above your command in 04:23
12 terms of supervisory review, correct? 04:23

13 A. That's correct. So, this would have 04:23
14 been the vice commander of the wing, then you have 04:23
15 the group, then you have the squadron. So two 04:23
16 levels up from the squadron. 04:23

17 Q. And the -- the subject of this relates 04:23
18 to -- it says, "Central Registry Board Incident 04:24
19 Determination," CRB for -- for -- for short. 04:24

20 Now, do you -- do you know what the CRB is? 04:24

21 A. Yes, sir. 04:24

22 Q. Tell me what your understanding of it 04:24
23 is. 04:24

24 A. So, the Central Registry Board is a 04:24
25 board that meets to consider primarily deposition 04:24

PEX 0087-0032

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1 abuse cases. And it is a nondisciplinary and it's 04:24
2 not judicial, it's administrative in nature. 04:24

3 And we use it in the Air Force to determine 04:24
4 whether acts meet certain criteria. And if they 04:24
5 meet those criteria for, say, domestic abuse, then 04:24
6 there's a central registry database that those names 04:24
7 can be put in. 04:25

8 And then that -- what that allows for is, for 04:25
9 example, if I was an airman on active duty and I had 04:25
10 a case that meet, and then I'm separated, and I come 04:25
11 back and apply for a civilian position, for example, 04:25
12 at a child development center -- 04:25

13 Q. Right.

14 A. -- then if it -- if they -- when they 04:25
15 run the check, if it pops up in the central -- 04:25
16 the -- if I've got a central registry in a case that 04:25
17 met, then there's an alert that, for example, in the 04:25
18 case of domestic abuse, that might not be the person 04:25
19 you want working with children -- 04:25

20 Q. Right.

21 A. -- because they had a case that 04:25
22 previously met criteria for a central registry 04:25
23 board.

PEX 0087-0033

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24 Q. And my understanding in reading through 04:26
25 this sort of mandatory various instructions for the 04:26

PEX 0087-0034

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1 Air Force on this kind of board is that the -- 04:26
2 the -- one of the commanders, whether it's from the 04:27
3 wing or from -- or from right below them, they put 04:27
4 together sort of a collection of individuals, 04:27
5 including this judge advocate's office, the -- the 04:27
6 squadron Security Forces and OSI to be on this board 04:27
7 and serve? 04:27

8 A. That's correct. The Air Force 04:27
9 instruction spells out specific members. And there 04:27
10 are voting and nonvoting members on the board. And 04:27
11 they hear cases like domestic abuse. 04:27

PEX 0087-0035

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2 Q. Okay. And -- and what -- what you're 04:28
3 talking about is is that the CRB, part of their job 04:28
4 is to participate in maintaining a central registry 04:28
5 of all reported domestic abuse and child 04:28
6 maltreatment incidents that might -- that meet 04:28
7 criteria for maltreatment at the installation CRB? 04:28

8 A. That's correct. 04:28

9 Q. Okay. And the -- let's go back to 04:28
10 Exhibit No. 8, so -- just to put a bow on it. 04:28

11 On October 21st, 2011, the 49th Wing Vice 04:28
12 Commander is sending a memo to the 49th LRS at 04:29
13 Holloman Air Force Base that -- that the CRB met, in 04:29
14 relation to Devin Kelley on October 21st, 2011, to 04:29
15 review incident involving Devin Kelley, correct? 04:29

16 A. Correct.

17 Q. And the allegation was child physical 04:29
18 maltreatment by Devin Kelley, correct? 04:29

19 A. Correct. 04:29

20 Q. And the board, the CRB board, determined 04:29
21 the incident "met criteria for child physical 04:29
22 maltreatment and entry into the DoD Central Registry
23 database," correct?

24 A. Yes, sir.

PEX 0087-0036

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24 Q. Got it. So, to put a pin on that, on 04:32
25 October 21st, 2011, the CRB made a determination. 04:32

PEX 0087-0037

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1 that there was probable cause that Devin Kelley was
2 involved in child maltreatment, so the criteria for
3 the CRB reporting was met?

04:32

04:32

04:32

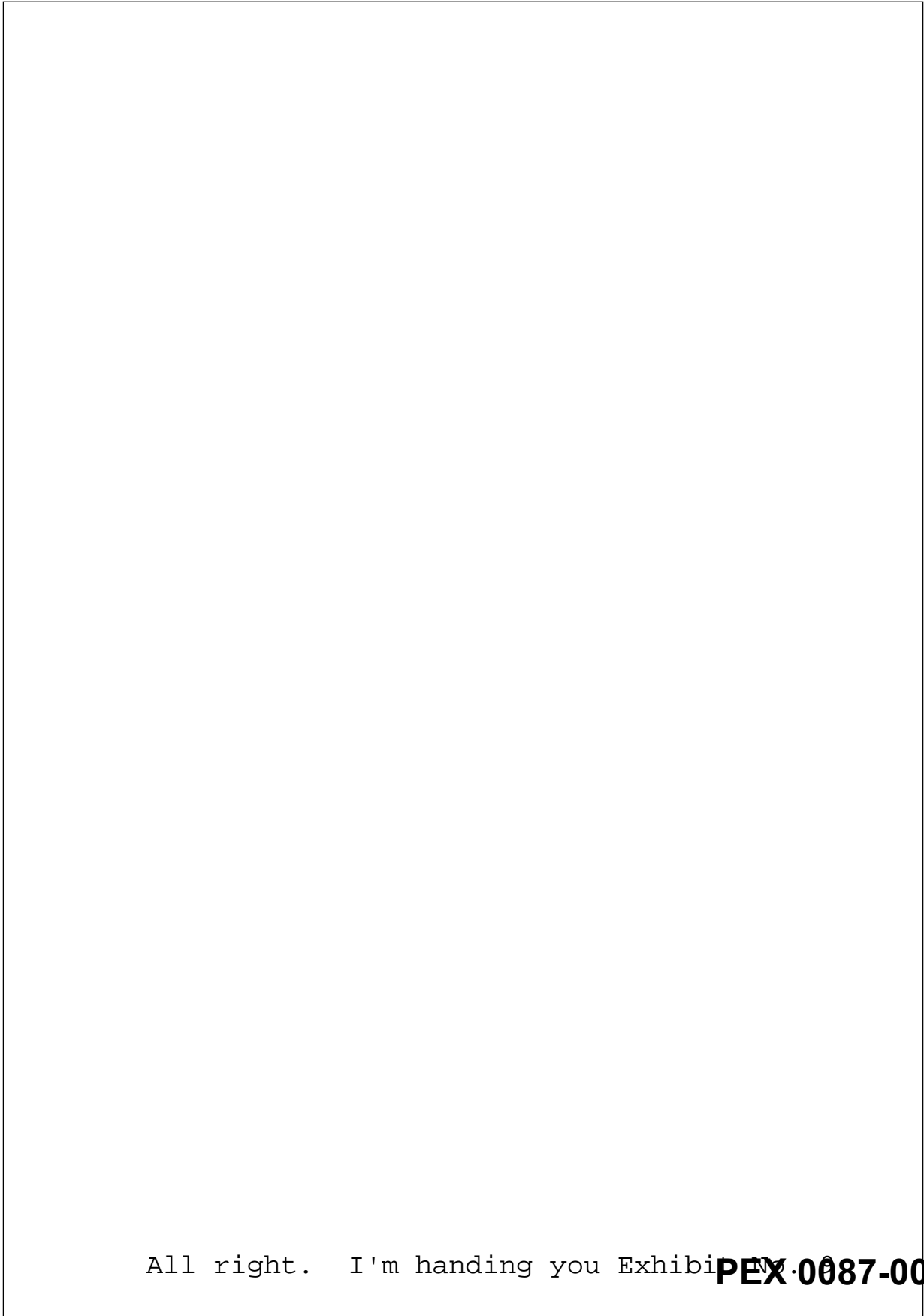
4 A. Yes, sir.

04:33

PEX 0087-0038

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All right. I'm handing you Exhibit No. **PEX 0087-0039** 35

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1 It's a letter, memorandum, dated February 16th, 04:35
2 2012. And this one is actually a memorandum for 04:35
3 Devin Kelley, specifically, correct? 04:35

4 A. That's correct. 04:35

5 Q. And it's on the front and back. I'm 04:35
6 trying to save some trees. And it's from -- do you 04:35
7 see on the back that it says this letter, this 04:35
8 memorandum, is from John De Laura, 2d Lieutenant, 04:35
9 U.S. Air Force; do you know who that is? 04:35

10 A. Yes. 04:35

11 Q. Okay. Can you tell me who that is? 04:35

12 A. Yes. So we call him Art. So Art was -- 04:35
13 by the time I got there, I think he was a First 04:35
14 Lieutenant. And so he was one of the officers in 04:35
15 the squadron at the time.

PEX 0087-0040

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23 It states that, On February 3rd, 2012, you
24 were briefed by Ms. Valorie Rowe; do you see that?
25 A. Yes, sir.

04:37

04:37

PEX 0087-0041 04:37

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1 Q. And I want you to go a little bit down 04:37
2 towards the bottom of Paragraph 1 where it says, 04:37
3 "You left the office"; do you see that? 04:37

4 A. I do. 04:37

5 Q. It states, You left the office and 04:37
6 disrespectfully stated, quote, I know, you told me 04:37
7 three times already!, end quote. After leaving the 04:37
8 office you stated, quote, She's a fucking bitch, end 04:37
9 quote; do you see that? 04:38

10 A. I do. 04:38

11 Q. Okay. And I apologize for the language, 04:38
12 I'm just reading, just for the record, directly 04:38
13 what's reported in this letter. Okay? 04:38

14 A. I understand. 04:38

15 Q. Okay. And so this is a reprimand letter 04:38
16 for Devin Kelley's conduct, February 16th, 2012, 04:38
17 towards one of his female supervisors, correct? 04:38

18 A. Correct. 04:38

PEX 0087-0042

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1 Q. It says, Interview of Tessa Kelley, 04:58
2 February 17th, 2012, by Ryan Sablan or Sablan, 49 04:58
3 SFS; do you see that? 04:59

4 A. I do.

5 Q. So that's again, the 49th Security 04:59
6 Forces, correct? 04:59

7 A. Correct. 04:59

8 Q. All right. And I just want to go 04:59
9 through this investigation, or this letter, in light 04:59
10 of the letter of reprimand where I just showed you 04:59
11 where Devin Kelley had some pretty harsh words for 04:59
12 his supervisor, Valorie Rowe. Okay? 04:59

13 And do you agree, that characterization is 04:59
14 harsh words and inappropriate words to his 04:59
15 supervisor, female supervisor? 04:59

16 A. I agree. 04:59

17 Q. Okay. February 17th, 2012, Tessa Kelley 04:59
18 is report -- well, reporting a fairly serious 04:59
19 instance of physical abuse by Devin Kelley on her; 04:59
20 is that a -- fair to say? 04:59

21 A. Yes. It says that she stated he choked 04:59
22 her, in the first line. 04:59

23 Q. And I'll read that into the record. 04:59

24 Kelley -- Tessa Kelley -- states he -- Devin 04:59
25 Kelley -- choked her in the restroom and 04:59

PEX 0087-0043

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 occasions has choked her because she didn't want to
2 spend Christmas with his family.

04:59

3 On December 24th, Kelley stated he pushed her
4 against the wall, choked her and told her, You
5 better pack your bags or I'll choke you to the
6 ceiling and pass you out; do you see that?

05:00

05:00

05:00

05:00

7 A. I do.

05:00

8 Q. Okay. So February 17th, 2012, the 49th
9 Security Forces at Holloman Air Force Base is
10 getting an allegation that Kelley's threat -- is
11 choking his wife on more than one occasion, correct?

05:00

05:00

05:00

05:00

12 A. Correct.

05:00

13 Q. A couple of lines down, Tessa Kelley
14 stated Devin Kelley dragged her by her hair into the
15 bathroom and said, I'm going to water board you, and
16 stuck her head in the showerhead; do you see that?

05:00

05:00

05:00

05:00

17 A. I do.

05:00

PEX 0087-0044

LT. COLONEL ROBERT C. ROBERT BEARDEN
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2 Q. (By Mr. Alsaffar) The couple lines 05:01
3 down, she says that Devin Kelley stated, You're 90 05:01
4 percent of our problem and you -- if you repeat what 05:01
5 I say, I'll kill you and drag your dead body and 05:01
6 desert it. 05:01

7 So Tessa Kelley is reporting on 05:01
8 February 17th, 2012, that Devin Kelley now has also 05:01
9 threatened to kill her and drag her body to desert 05:01
10 it, correct? 05:01

11 A. Correct. 05:01

12 Q. And next line, Tessa Kelley stated, On 05:01
13 multiple occasions, he has called her a bitch, 05:01
14 whore, slut, piece of shit, worthless and your 05:01
15 family doesn't love you. 05:01

16 And that -- that language right there -- and 05:01
17 I apologize again for using it, but that's what's 05:01
18 stated in her report, correct? 05:01

19 A. That's correct. 05:01

20 Q. The -- that language is similar to what 05:01
21 Devin Kelley's supervisor was reporting about a week 05:02
22 before, the type of language Devin Kelley was using 05:02
23 against his female supervisor, correct? 05:02

24 A. Correct. 05:02

25 Q. Okay. If you look about four 05:02

PEX 0087-0045

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 lines down from where we were just reading -- 05:02
2 actually, one, two, three, four -- you know, the 05:02
3 easiest thing for me to do is just highlight it for 05:02
4 you. Okay. 05:02

5 I highlighted the line for you where Tessa 05:02
6 Kelley is reporting that Devin Kelley said, quote, 05:02
7 My work is lucky. I'd take a shotgun and blow 05:02
8 everyone's head off; do you see that? 05:02

9 A. I do. 05:03

10 Q. Okay. So this is a report directed to 05:03
11 the 49th Security Forces at Holloman Air Force Base 05:03
12 on February 17th, 2012, where Devin Kelley is 05:03
13 threatening to engage in a mass shooting, right? 05:03

14 A. Right. Yeah, Tessa Kelley is saying 05:03
15 that that's what he said. 05:03

16 Q. Okay.

17 A. Yep, I agree. 05:03

21 This is a report that -- by his wife to the 05:03
22 49th Security Forces that on February 17th, 2012, 05:03
23 that Devin Kelley is threatening to use a gun to 05:03
24 commit mass murder, correct? 05:03

25 A. Correct.

PEX 0087-0046 05:03

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24 So, first of all, the -- the letter of 05:04
25 reprimand where he called his female superior 05:04

PEX 0087-0047

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1 week before a bitch, sorry for using that language, 05:04
2 but that's -- that's what he used. 05:05

3 And then about a week and a half later, the 05:05
4 49th is getting another report that he's using that 05:05
5 kind of language on top of choking his wife and 05:05
6 threatening to commit mass murder against his people 05:05
7 at work, correct? 05:05

8 A. Correct. 05:05

23 Q. And -- and we'll go -- we'll keep going 05:05
24 through these so that we can identify them, but you
25 kind of made a reference. 05:05

PEX 0087-0048

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1 So, actually, June 25th, 2011, is when the 05:05
2 AFOSI informed your squadron -- you weren't there 05:06
3 yet -- 05:06

4 A. Right. 05:06

5 Q. -- so -- but your squadron that, Hey, 05:06
6 we're already criminally investigating him. You get 05:06
7 the February letter of reprimand where he's -- he's 05:06
8 using very intemperate and inappropriate language 05:06
9 towards his female supervisor in your -- in -- in 05:06
10 LRS' command at 49th -- 05:06

11 A. Correct. 05:06

12 Q. -- correct? And then, a couple of weeks 05:06
13 after that, February 17th, 2012, his wife is 05:06
14 reporting yet another instance of abuse with very 05:06
15 specific -- would you agree, very specific, very 05:06
16 detailed, granular, disturbing details about both 05:06
17 his physical abuse of her and his threat to commit 05:06
18 mass murder against people at Holloman? 05:06

19 A. Yes, sir. 05:06

PEX 0087-0049

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20 Q. So, it would be a -- what you would 05:08
21 expect, at least, would be a phone call from 05:08
22 Security Forces to the First Sergeant at LRS, who 05:08
23 you would then hope would inform the commander of 05:08
24 the LRS about somebody like Devin Kelley? 05:08
25 A. That's exactly the way I would expect it. 05:08

PEX 0087-0050

LT. COLONEL ROBERT C. ROBERT BEARDEN
JOE HOLCOMBE vs UNITED STATES

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1

to go.

05:08

PEX 0087-0051

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18 Q. (By Mr. Alsaffar) And I'm going to hand
19 you, sir, Exhibit No. 10. Exhibit No. 10 is dated
20 April 17th, 2012, correct?

05:17

05:17

21 A. Yes, sir.

05:17

22 Q. Now, this is -- this is a memorandum
23 again for Devin Kelley specifically, right?

05:17

05:17

24 A. Correct.

05:17

PEX 0087-0052

LT. COLONEL ROBERT C. ROBERT BEARDEN
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13 Q. Okay. At this time, April 17th, 2012, 05:18
14 the acting commander was Nathan McLeod-Hughes, Major 05:18
15 Nathan McLeod-Hughes, right? 05:18
16 A. Correct. 05:18
17 Q. And that's who this April 17th, 2012, 05:18
18 memo is from? 05:18
19 A. Yes, sir. 05:18
20 Q. And this is yet another letter of 05:18
21 reprimand, right? 05:18
22 A. Correct. 05:18
23 Q. And it states under the first paragraph 05:18
24 that "Investigation has revealed that you physically 05:18
25 assaulted Mrs. Tessa Kelley on or about February 17, 2012." 05:18

PEX 0087-0053

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1 2012"; do you see that? 05:18

2 A. I do. 05:18

3 Q. "That on multiple occasions you 05:18

4 physically assaulted your spouse, on this occasion 05:18

5 you punched her in the arm and slapped her with an 05:18

6 open hand while you were involved in a 05:19

7 verbal/physical altercation"; do you see that? 05:19

8 A. I do. 05:19

15 Q. All right. So now, we've got 49th 05:19

16 Security Forces, February 2012. And now we have 05:19

17 Major Nathan McLeod-Hughes, as well, reporting and 05:19

18 being made aware of Devin Kelley's assault on his 05:19

19 wife, correct? 05:19

20 A. Right. 05:19

21 Q. Okay. And this is -- he states, "You 05:19

22 are hereby reprimanded! Your actions violated

23 Article 128 of the UCMJ-Assault," right? 05:19

24 A. Yes. 05:19

25 Q. Okay. So, this would have been another 05:19

PEX 0087-0054

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 instance where the Air Force, and specifically the
2 49th LRS, was aware of Devin's -- Devin Kelley's
3 reported violence, correct?

05:19

05:19

05:20

4 A. Correct.

05:20

PEX 0087-0055

LT. COLONEL ROBERT C. ROBERT BEARDEN
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19 Q. Can anyone carry a firearm on base? 05:22
20 A. No. So, typically, you're limited to 05:22
21 law enforcement personnel. Some bases allow retired 05:22
22 law enforcement personnel to carry on base, that 05:23
23 kind of thing. 05:23
24 What's typical would be that, like, to have 05:23
25 it stored in your home, you have to register it with 05:23

PEX 0087-0056

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 Security Forces so that they know you have firearms 05:23
2 in your home. 05:23

3 That -- that's typical, but carrying, no. So 05:23
4 you -- typically, you transport, you know, in your 05:23
5 car, in the trunk, on -- on or off of base, but 05:23
6 otherwise, it's locked up at home. 05:23

9 Q. (By Mr. Alsaffar) All right. I'm 05:23
10 going -- I'm going to hand you Exhibits No. 11 and 05:23
11 No. 12, okay? 05:23

12 A. Okay. 05:23

13 Q. And I don't know if you're familiar with 05:23
14 these forms, but what I've handed you, Exhibit 05:23
15 No. 11 is a Firearms Transaction form, commonly 05:23
16 known as an ATF Form 4473. It's a form you fill out 05:23
17 when you want to buy a gun. 05:23

18 A. Okay. 05:23

PEX 0087-0057

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 Q. Now, the first exhibit, No. 11, that I 05:24
2 handed you, if you look on -- I've highlighted it 05:24
3 for you on the back -- remember when we were talking 05:24
4 about his two reports in February 2012, one from his 05:24
5 female supervisor where he had used that -- that 05:24
6 inappropriate language and then we'd seen one a week 05:24
7 and a half later, his wife reported him in 2012 05:24
8 threatening choking her, water boarding her, 05:24
9 threatening mass murder; do you remember that? 05:24

10 A. I do. 05:24

11 Q. That was about February 17th, 2012. Now 05:24
12 this, on that second page that you're looking at is 05:25
13 Devin Kelley is purchasing a weapon at -- around 05:25
14 February 11, 2012, correct? 05:25

15 A. 12th. 05:25

16 Q. Oh, February 12th, 2012, correct? 05:25

17 A. Correct. 05:25

18 Q. So this is right in between the time 05:25
19 frame right after -- after he made those remarks to 05:25
20 his female supervisor and just before his wife comes 05:25
21 in and says, This guy is choking me, water boarding 05:25
22 me and threatening to kill his leadership? 05:25

23 A. Correct. 05:25

24 Q. Okay. And if you noted that this was 05:25
25 purchased at Holloman Air Force Base Exchange? 05:25

PEX 0087-0058

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1 A. I see that. 05:25

2 Q. Do you see that? Okay. All right. And 05:25

3 then, the second exhibit, Exhibit No. 12, remember 05:25

4 commander -- acting commander Nathan McLeod-Hughes' 05:25

5 letter was April 17th, 2012; is that correct? 05:25

6 A. Yes. 05:26

7 Q. All right. And what is -- this -- this 05:26

8 form is Devin Kelley purchasing another firearm at 05:26

9 Holloman Air Force Base Exchange. And what's the 05:26

10 date on the purchase there? 05:26

11 A. April 12th, 2012. 05:26

12 Q. Okay. So the -- just a few days before 05:26

13 this letter of reprimand from Commander Nathan 05:26

14 McLeod-Hughes --

15 A. Um-hum.

16 Q. -- Devin Kelley has purchased another 05:26

17 separate firearm at Holloman Air Force Base 05:26

18 Exchange, correct? 05:26

19 A. Correct. 05:26

PEX 0087-0059

LT. COLONEL ROBERT C. ROBERT BEARDEN
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20 Q. Okay. And one of the laws that we have 05:28
21 in place in this country is that if you have either 05:28
22 been credibly accused, via probable cause of a 05:28
23 crime, domestic violence or a felony assault, that 05:28
24 your fingerprints should be collected and they 05:28
25 should be reported to the FBI, which would then 05:28

PEX 0087-0060

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 prevent you from purchasing a firearm, right? 05:28

2 A. Right. 05:28

7 Q. (By Mr. Alsaffar) And that -- and when 05:28

8 we -- people like that who are supposed to be 05:28

9 reported to the FBI in order to prevent them from 05:28

10 getting firearms are allowed to purchase firearms, 05:28

11 that increases the risk of harm to the public; 05:29

12 doesn't it? 05:29

13 MR. FURMAN: Objection to the form. 05:29

14 A. I would agree with that. 05:29

22 Q. I want to show you Exhibit No. 13. 05:29

23 (Deposition Exhibit 13 was marked for
24 identification.)

25 Q. (By Mr. Alsaffar) Exhibit 13 is a copy of 05:29

PEX 0087-0061

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 of a letter -- or a memorandum from Tracy Wolfe and 05:29
2 sergeant -- First Sergeant 49th LRS; do you see 05:29
3 that? 05:29

4 A. I do. 05:29

11 Q. And I'm sorry, this is dated April 26th, 05:29
12 2012? 05:29

13 A. Correct. 05:29

14 Q. And this is a memorandum for -- this is 05:29
15 the 49th Security Forces, correct? 05:30

16 A. Correct. 05:30

17 Q. All right. So this is the place that 05:30
18 had -- it was conducting the investigation, the 05:30
19 Security Forces of the -- of Devin Kelley on 05:30
20 February 17th, 2012, right? 05:30

21 A. That's correct. 05:30

22 Q. So two months later, your -- this was 05:30
23 your First Sergeant at Holloman, correct -- 05:30

24 A. Correct. 05:30

25 Q. -- when you came in command. 05:30

PEX 0087-0062

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 months after that February event, 2012, Tracy Wolfe 05:30
2 is sending this memo to the 49th Security Forces 05:30
3 telling them that, I've taken -- I'm in possession 05:30
4 of one of the firearms of Devin Kelley and storing 05:30
5 it at the base armory, correct? 05:30

6 A. It's asking -- it's asking the Security 05:30
7 Forces Squadron to store a firearm belonging to 05:30
8 Devin Kelley at the armory, base armory. 05:30

9 Q. All right. And -- and so what has 05:30
10 happened is First Sergeant Wolfe is in possession 05:30
11 and has taken the gun -- Devin Kelley's gun -- a gun 05:30
12 of Devin Kelley's? 05:30

13 A. I think that's a reasonable assumption. 05:30

14 Q. Okay. And so your -- First Sergeant 05:31
15 Wolfe, who was Marconi's First Sergeant at this 05:31
16 time --

17 A. Right.

18 Q. -- Commander Marconi's First Sergeant at 05:31
19 this time is asking the Security Forces of the 49th 05:31
20 at Holloman to store it and not let Devin Kelley get 05:31
21 this gun? 05:31

22 A. Correct. Yeah. He goes on to say, the 05:31
23 only people who are authorized to check it out are 05:31
24 him and the commander -- "him" being First Sergeant 05:31
25 Wolfe. 05:31

PEX 0087-0063

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6 Q. Now, I just showed you two documents 05:32
7 where in the span of a couple of months, Devin 05:32
8 Kelley had purchased two guns at Holloman Air Force 05:32
9 Base, a .38 Special and a 9 millimeter
10 semiautomatic, correct?

11 A. Correct.

12 Q. All right. So this is only talking
13 about securing the .38 Special? 05:32

14 A. That's correct. 05:32

15 Q. So, at this point, we don't know what's 05:32
16 going on with the other gun? 05:32

17 A. I think that's a reasonable assumption. 05:32

18 Q. All right. Are you familiar with what 05:32
19 an HRVRT is? 05:32

20 A. A high risk -- I forget the V, but it's 05:32
21 a -- it's a team you called together if you think 05:33
22 that you've got an airman that isn't -- presents a 05:33
23 high risk. 05:33

24 So it's -- brings together several different 05:33
25 agencies on the base to consider, Okay, in this 05:33

PEX 0087-0064

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1 person a risk to themselves or others? 05:33

2 Q. Is it, HRVRT stands for High Risk for 05:33

3 Violence Response Team? 05:33

4 A. That sounds correct. 05:33

5 Q. Okay. So there's a team that's put 05:33

6 together on the base when you have identified an 05:33

7 individual that is a high risk for violent conduct? 05:33

8 A. Right. 05:33

PEX 0087-0065

13 So Exhibit 05:35

14 No. 14, the front page says, Memorandum For -- and

15 then there's handwriting, 49 LRS-CC-CC -- looks like 05:36

16 F? 05:36

17 A. F. 05:36

18 Q. What is -- what does that mean? 05:36

19 A. So to the commander and the First 05:36

20 Sergeant. 05:36

21 Q. Okay. So this is a memo to 49th 05:36

22 Logistics Readiness Squadron Commander and -- and 05:36

23 CCF is what again? 05:36

24 A. First Sergeant. 05:36

25 Q. First Sergeant. So that would have been 05:36

PEX 0087-0066

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1 Tracy Wolfe, probably? 05:36

2 A. Correct. 05:36

3 Q. All right. And this is from the 49th 05:36

4 Security Forces, correct? 05:36

5 A. From the commander. 05:36

6 Q. And the commander of the 49th Security 05:36

7 Forces signed here is David Boyd again? 05:36

8 A. Correct. 05:36

9 Q. And he's got -- in there, he's X'd a box 05:36

10 that says, "COMMANDER'S REPORT OF DISCIPLINARY 05:36

11 ADMINISTRATIVE ACTION IS REQUIRED...Upon completion, 05:36

12 please return the original form...with the action 05:36

13 annotated no later than" May 2nd, 2012; do you see 05:36

14 that? 05:36

15 A. I do. 05:36

16 Q. And then under No. 2, it states, "The 05:36

17 unit commander or designee must endorse all forms." 05:36

18 A. Correct. 05:36

19 Q. And then at the bottom there, it says, 05:36

20 "AF Form 3545/SFMIS," and it's got that case number, 05:37

21 and "ROI"; do you see that? 05:37

22 A. I do. 05:37

23 Q. Which, that stands for Report of 05:37

24 Investigation? 05:37

25 A. It does. 05:37

PEX 0087-0067

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 Q. And then attached to it is that document 05:37
2 I showed you earlier where -- from the file where 05:37
3 it's got the narrative of the interview with Tessa 05:37
4 Kelley with all the description of what Devin Kelley 05:37
5 was doing, including his threats for mass murder, 05:37
6 with the legal consultation with the SJA, and then 05:37
7 the Commander Boyd instruction? 05:37

8 A. Yes, sir. 05:37

9 Q. So it appears -- does it appear from 05:37
10 this document that around this time frame, so around 05:37
11 the end of April, May 2012, the Security Forces is 05:37
12 sending to the 49th LRS notification of the Security 05:37
13 Forces investigation of Devin Kelley? 05:37

14 A. Correct, and requiring from them some 05:37
15 kind of action. 05:37

PEX 0087-0068

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12 Q. Okay. All right. And now, we're -- 05:38
13 we're getting to what we were just discussing a few 05:38
14 seconds ago, which is the HRVRT -- 05:38
15 A. Okay. 05:39
16 Q. -- meeting. So now, we're talking about 05:39
17 mid-May 2012. The 49th LRS now has received the 05:39
18 notification of investigation from the Security 05:39
19 Forces into Devin Kelley with the various threats he 05:39
20 made. 05:39
21 And I want to talk now about the High Risk 05:39
22 for Violence Response Team that was formed for Devin 05:39
23 Kelley.
24 Now, you had mentioned the regulation 05:39
25 earlier. Now, there's a -- let me find it

PEX-0087-0069

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 got it right here. There is an Air Force 05:39
2 Instruction, a mandatory instruction, actually, 05:39
3 relating to how the Air Force has to handle HRVRT 05:39
4 situations, correct? 05:39
5 A. I believe so. 05:39

11 (Deposition Exhibit 15 was marked for
12 identification.) 05:39

13 Q. (By Mr. Alsaffar) All right. I'm 05:39
14 handing you Exhibit No. 15. This was produced to us 05:39
15 by the government.

16 A. Okay.

17 Q. It's Bates stamp 7575. And it's Air 05:40
18 Force Instruction 40-301. And from the Family 05:40
19 Advocacy Program. And you see that it states that 05:40
20 "COMPLIANCE OF THIS PUBLICATION IS MANDATORY," 05:40
21 correct? 05:40

22 A. I do. 05:40

23 Q. Okay. So no discretion involved, you 05:40
24 have to follow this instruction, right? 05:40

25 A. Correct. 05:40

PEX 0087-0070

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 Q. It's one of those. So let's talk 05:40
2 about -- let me flip you to Page 2, Section 2.2.8; 05:40
3 do you see that? 05:40

4 A. I do. 05:40

5 Q. Okay. And it's titled, "High Risk for 05:40
6 Violence Response Team, (HRVRT)," right? 05:40

7 A. It is. 05:40

8 Q. Correct? Okay. So, it states that, 05:40
9 "The HRVRT will be activated when there is a threat 05:40
10 of immediate and serious harm to family members, 05:40
11 unmarried intimate partners, or the FAP staff," 05:40
12 which is the Family Advocacy Program, correct? 05:41

13 A. Correct. 05:41

14 Q. Okay. So we know that the HRVRT, the 05:41
15 high risk for violence team is not even put together 05:41
16 unless there is a threat from someone of immediate 05:41
17 and serious harm to family members? 05:41

18 A. Correct. 05:41

23 Q. All right. "Members are appointed in 05:41
24 writing by their CC," which stands for commander? 05:41

25 A. It does. 05:41

PEX 0087-0071

LT. COLONEL ROBERT C. ROBERT BEARDEN
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1 Q. All right. "And approved by the FAC. 05:41
2 Membership includes the FAO, the FAP clinician 05:41
3 working with the family, member's SQ/CC," and that 05:41
4 stands for? 05:41
5 A. Squadron commander. 05:41
6 Q. All right. So that would be the 49th 05:41
7 LRS in Devin Kelley's situation? 05:41
8 A. Correct. 05:41
9 Q. "JA," which stands for judge advocate? 05:41
10 A. Correct. 05:41
11 Q. "SFS," which stands for Security Forces, 05:41
12 correct? 05:41
13 A. Correct. 05:41
14 Q. "MH provider, AFOSI"? 05:41
15 A. Correct. 05:42
16 Q. "DAVA," do you know what that is? 05:42
17 A. DAVA, the -- I would need to look it up, 05:42
18 but it's -- they handle abuse cases. 05:42
19 Q. Domestic abuse -- 05:42
20 A. Domestic abuse, yes. 05:42
21 Q. Okay. And so, this is -- you had 05:42
22 mentioned this, they're kind of similar to the 05:42
23 CRB where it's a collection of -- HRVRT is a 05:42
24 collection of various members of squadron 05:42
25 commanders, judge advocates, Security Forces 05:42

PEX 0087-0072

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1 advocacy folks, family advocacy clinicians, AFOSI 05:42
2 members in a group team to help assess the threat 05:42
3 risk of this person, right? 05:42

4 A. Right. 05:42

25 Q. (By Mr. Alsaffar) Okay. The reason 05:43

PEX 0087-0073

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1 being that Devin Kelley would have posed a threat of 05:43
2 immediate and serious harm to family members? 05:43

3 A. Right. 05:43

19 Q. (By Mr. Alsaffar) This Exhibit 16 is 05:44
20 a -- at the top, it's titled "U.S. Department of 05:44
21 Justice, Bureau of Alcohol, Tobacco, Firearms and
22 Explosives from Chief Counsel"; do you see that? 05:44

23 A. I do. 05:44

24 Q. Okay. Now, this was produced to us by 05:44
25 the government, as well. And you -- can you read 05:44

PEX 0087-0074

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1 the Bates stamp number on the bottom right for 05:44
2 everybody?

3 A. 5399. 05:44

4 Q. Okay. And it's got a USA Bates stamp 05:44
5 number, correct? 05:44

6 A. It does. 05:44

18 Q. Do you remember when I told you a couple 05:45
19 of minutes ago that at Holloman Air Force Base, a 05:45
20 High Risk for Violence Team was put together for 05:45
21 Devin Kelley on May 14th, 2012, time frame? 05:45

22 A. I do. 05:45

23 Q. Okay. So this -- this establishes -- 05:45
24 this is where we get this information. 05:45

25 A. Okay. 05:45

PEX 0087-0075

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1 Q. The Department of Justice is telling us 05:45
2 that on May 14th to 15th, 2012, at Holloman Air 05:45
3 Force Base, a High Risk for Violence Response Team 05:45
4 convened to discuss Devin Kelley's mental health 05:45
5 concerns; do you see that?

6 A. I do.

PEX 0087-0076

7 So in this letter from the Department of
8 Justice, it states, May 14th to 15th, a high risk
9 for violence team has been put together for Devin
10 Kelley, correct?

05:46

05:46

05:46

11 A. I see that.

05:46

12 Q. At Holloman Air Force Base, right?

05:46

13 A. Yes, sir.

05:46

17 Q. And it states further, "Kelley's
18 Squadron leadership and his mental health providers
19 feel that he is a major threat to commit an act of
20 violence, and is currently institutionalized for
21 mental and emotional instability."

05:46

05:46

05:46

05:46

22 A. It does.

05:46

PEX 0087-0077

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8 Q. Okay. And so, at least we know through 05:47
9 the HRVR team that in May 14th-15th, the 49th LRS 05:47
10 Squadron has determined that he is, Devin Kelley, is 05:47
11 a major threat to commit an act of violence, 05:47
12 correct? 05:47

13 A. Correct. 05:47

PEX 0087-0078

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20 Q. So, I'm showing you -- this is the USA 05:54
21 Bates stamp, I'll show you the Bates stamp on the 05:54
22 bottom, 13431; do you see that? 05:54
23 (Deponent perused computer screen.) 05:54
24 A. Not yet. 05:54

PEX 0087-0079

LT. COLONEL ROBERT C. ROBERT BEARDEN
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3 Q. You see it, okay. And this is -- let me 05:55
4 pull it up again. I'll highlight it for you. This 05:55
5 is a report from AFOSI dated April 29th, 2012, 05:55
6 correct? 05:55

7 A. Correct. 05:55

8 Q. And I want to show you the AFOSI. And 05:55
9 it's an interview of your First Sergeant by Special
10 Agent Holtz, correct? 05:55

11 A. Interview of Wolfe, Tracy A. I don't 05:55
12 see who did it. Sorry.

13 Q. The first page; do you see that? 05:55
14 Interview of Wolfe, April 29th -- 05:55

15 A. I do.

16 Q. -- 2012?

17 A. Yep.

18 Q. And then -- oh, I'm sorry. It's by
19 Clinton Mills --

20 A. Mills, Clinton. I see at the bottom.

21 Q. Clinton Mills is a Special Agent, AFOSI. 05:55

22 A. Okay. 05:55

23 Q. And it states that Tracy Wolfe, Holloman 05:55
24 Air Force Base, 49 LRS provided AFOSI Detachment 225 05:55
25 with a black external hard drive allegedly 05:55

PEX 0087-0080

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1 containing a confession by subject, D. Kelley to 05:55
2 all of victim's injuries. Wolfe received the hard 05:55
3 drive from subject T. Kelley on the same day. 05:56
4 A. Correct. 05:56

13 Q. -- where I was getting it from. So 05:56
14 let's go back to the -- the HRVRT, high risk for 05:56
15 violence meeting and then the action subsequent to 05:56
16 that.

17 A. Okay. 05:56

18 Q. So, if you look on -- what exhibit 05:56
19 number was that again? 05:56

20 A. Exhibit 16. 05:56

21 Q. Exhibit 16. And it's Page No. 4, it's 05:56
22 No. 3 on the bottom. 05:56

23 A. Okay. 05:56

24 Q. June 8, 2012; do you see that? 05:56

25 A. I do. 05:56

PEX 0087-0081

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1 Q. And actually, above it, June 7th, 2012, 05:56
2 the Department of Justice states that Kelley
3 "'escapes' from Peak Behavioral Health Services
4 where he is undergoing treatment"; do you see that? 05:56

5 A. I do. 05:56

6 Q. And are -- were you aware that he had 05:56
7 tried -- he had -- well, he had escaped the Peak
8 Mental Institution, right?

9 A. I was made aware; I don't remember when. 05:57

10 Q. Okay. And then the next day, June 8th, 05:57
11 Kelley's commander orders him into pretrial 05:57
12 confinement at the 49th Security Forces, 05:57
13 Building 35, right? 05:57

14 A. Correct. 05:57

15 Q. Now, where is that confinement facility 05:57
16 located, vis-à-vis, your 49 LRS? 05:57

17 A. Again, within probably a mile, short 05:57
18 drive on the base. 05:57

19 Q. Okay. And June 8, 2012, "Confinement 05:57
20 was deemed necessary because it was foreseeable he 05:57
21 would flee again and engage in serious criminal 05:57
22 misconduct"; do you see that? 05:57

23 A. I see that. 05:57

24 Q. And you have no reason to disagree with
25 that statement, correct?

PEX 0087-0082

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1 A. I do not. 05:57

2 Q. Okay. And there's "evidence in the 05:57

3 record that Kelley attempted to purchase a handgun 05:57

4 before being placed into pretrial confinement 05:57

5 (June 7, 2012 entry)"; do you see that? 05:57

6 A. I do. 05:57

16 Q. (By Mr. Alsaffar) Exhibit No. 17 is 05:58

17 Bates stamped USA 13378, and it's from Xavier 05:58

18 Alvarez, Director of Military Affairs.

19 A. Okay. 05:58

PEX 0087-0083

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2 Q. "At approximately 2235 Nurse on unit 05:58
3 informed staff that a code three (elopement) had 05:58
4 been called onto Military Unit reference Devin 05:58
5 Kelley." All right?

6 So, this is a notification that he was 05:58
7 escaping from the mental institution, right? 05:58

8 A. Right. 05:58

9 Q. Now, you were -- your understanding was 05:58
10 he had escaped from that mental institution; he was 05:58
11 not allowed to; it was AWOL on his part, right? 05:58

12 A. Correct. 05:58

13 Q. And if you go a couple of lines down, 05:58
14 commander -- or sorry, Director Alvarez states, 05:59
15 "Computer results showed that DK had been searching 05:59
16 weapons, body armor, transport to San Antonio and 05:59
17 lodging. 05:59

18 "SM's (sic) reported to staff, that DK had 05:59
19 been working diligently in PT, to accomplish a 05:59
20 twelve mile run"; do you see that? 05:59

21 A. I do. 05:59

PEX 0087-0084

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6 Q. And so, what we know is that he was 05:59
7 searching for weapons and body armor while he was in 05:59
8 a mental institution on the day or around the time
9 he was trying escape from the mental institution, 05:59
10 right?

11 A. Right. 05:59

12 Q. Okay. Now, if you go a little bit 05:59
13 farther down, do you see where it says "Greyhound 05:59
14 security and Police"? 05:59

15 A. I do. 05:59

16 Q. "Greyhound security and Police were 05:59
17 notified of the possible suspect heading downtown 05:59
18 and advised that he may be a danger as per his 05:59
19 recent 'death by cop' statements"; do you see that? 06:00

20 A. I do. 06:00

PEX 0087-0085

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6 Q. Exactly. So, in other words, this is 06:00
7 another kind of -- another different kind of threat 06:00
8 with weapons that Devin Kelley is making? 06:00

9 A. Right. 06:00

10 Q. All right. And the next sentence, 06:00
11 "Throughout" -- it says, "Throughout this process 06:00
12 Master Sergeant Wolfe," so that's Tracy Wolfe, 06:00
13 correct? 06:00

14 A. Correct. 06:00

15 Q. -- "and Major Nordin were in constant 06:00
16 communication with Director Alvarez."

17 So again -- first of all, do you know who
18 Major Nordin is? 06:00

19 A. I don't. 06:00

20 Q. Okay. So, in this situation, Director 06:00
21 Alvarez is stating that your First Sergeant Wolfe 06:01
22 is -- is communicating with them and is being made 06:01
23 aware of all this stuff, was actually working 06:01
24 closely and being made aware of what Devin Kelley 06:01
25 was doing? 06:01

PEX 0087-0086

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1	A.	Right, right.	06:01
2	Q.	So -- so, your First Sergeant Wolfe	06:01
3		would have known about the -- these searching for	06:01
4		weapons, searching for body armor, his escape from	06:01
5		the mental institution and his threat -- his weapons	06:01
6		threat of death by cop?	06:01
7	A.	Right.	06:01

PEX 0087-0087

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8 Q. Someone from the Security Forces, 06:13
9 someone now from family advocacy, as well. So 06:14
10 that -- that right there is four different units 06:14
11 within the Holloman Air Force Base that were put 06:14
12 together specifically aware that Devin Kelley posed 06:14
13 a high risk of violence by May 2012, fair? 06:14
14 A. Fair. 06:14

23 Q. I want to show you another thing related 06:14
24 to that, Exhibit No. 19. 06:14

25 (Deposition Exhibit 19 was marked for PEX 0087-0088

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1	identification.)	06:14
2	Q. (By Mr. Alsaffar) And this is dated May	06:14
3	17, 2012. Let me switch you on that -- actually,	06:14
4	you can have mine. That's okay. It makes it easier	06:14
5	for you. It makes it easier for you -- dated May	06:14
6	17, 2012. It's a memorandum for the 49th LRS	06:15
7	commander --	06:15
8	A. Correct.	06:15

PEX 0087-0089

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3	Q.	So May 17th, 2012, the CRB, Central	06:16
4		Registry Board, made that probable-cause	06:16
5		determination that Devin Kelley met the criteria for	06:16
6		adult physical maltreatment?	06:16
7	A.	Right.	06:16

PEX 0087-0090

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8 Q. I'm going to show you Exhibit 18. 06:17

9 A. Okay.

10 Q. I'm sorry, it's a little bit out of
11 order. And this is -- this is the letter I gave you 06:17
12 before the break, so you have it. 06:17

13 Exhibit 18 is a memorandum from the acting 06:18
14 commander for 49th LRS, that's Nathan McLeod-Hughes, 06:18
15 Major Hughes, correct? 06:18

16 A. Correct. 06:18

17 Q. And on -- so on June 8th, 2012, Major 06:18
18 Hughes has put this memorandum together for the 49th 06:18
19 Wing, Judge Advocate, the 49th Wing Commander, 06:18
20 right? 06:18

21 A. Correct. 06:18

PEX 0087-0091

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12	Q.	Now, this is a -- this is a memorandum	06:18
13		that the 49th LRS commanders put together approving	06:19
14		a pretrial confinement of Devin Kelley, June 8,	06:19
15		2012, correct?	06:19
16	A.	Correct.	06:19

PEX 0087-0092

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21 Q. So, first, Commander Hughes believes 06:20
22 that -- or he's stating here he has reasonable 06:20
23 grounds to believe these offenses were committed, 06:20
24 which means he has probable cause to believe they 06:20
25 were committed, right?

PEX 0087-0093

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1 A. Right. 06:20

2 Q. So, that's June 8, 2012, the 49th LRS 06:20
3 commander has probable cause to believe that -- that
4 these offenses were committed, right? 06:20

5 A. Correct. 06:20

6 Q. Now, underneath that, he states, 06:20
7 "Second, I have reasonable grounds to believe 06:20
8 continued pretrial confinement is necessary because 06:20
9 it's foreseeable that the confinee will not appear 06:20
10 at trial, and/or will engage in serious criminal 06:21
11 misconduct if confinement is not continued," 06:21
12 correct? 06:21

13 A. Correct. 06:21

14 Q. Commander Hughes here is stating that as 06:21
15 of June 8th, 2012, the 49th LRS has reasonable 06:21
16 grounds to believe that Devin Kelley will engage in 06:21
17 serious criminal misconduct, and that that is why he 06:21
18 has to be confined in a jail? 06:21

19 A. Correct. 06:21

PEX 0087-0094

06:22
06:22
06:22
06:22
06:22

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7 Q. Okay. And he notes on April 23rd, 2012, 06:23
8 Commander Hughes notes that "while driving to El 06:24
9 Paso," Kelley, Devin Kelley "took his gun out of his 06:24
10 holster and held it against her" -- Tessa 06:24
11 Kelley's -- "temple, stating 'do you want to die'"; 06:24
12 do you see that? 06:24
13 A. I do. 06:24

PEX 0087-0096

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19 Let's go down to No. 5. Commander Hughes 06:25
20 states that, "Furthermore, investigation revealed 06:25
21 that while receiving inpatient mental health care,
22 the member made several threatening statements that 06:25
23 if he were picked up by Security Forces that he 06:25
24 would go for their guns"; do you see that? 06:25
25 A. I do. 06:25

PEX 0087-0097

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1 Q. So, there, he's stating that -- all 06:25
2 right, we also know that Devin Kelley is now 06:25
3 threatening Security Forces if they come for him, 06:25
4 and specifically going for the Security Forces' 06:25
5 guns, too -- 06:25

6 A. Correct. 06:25

7 Q. -- right? Additionally, on June 7, 06:25
8 2012, Kelley contacted Holloman Air Force Base 06:25
9 Exchange and entered into an agreement to purchase a 06:25
10 9 millimeter handgun; do you see that? 06:25

11 A. I do. 06:25

12 Q. So this is when he's in a men- -- the 06:25
13 day he's in a mental facility, the day he escapes
14 the mental facility, he's trying to arrange for the 06:26
15 actual purchase of a gun from the Holloman Air Force 06:26
16 Base Exchange, right? 06:26

17 A. I see that. 06:26

18 Q. And do you remember when I showed you 06:26
19 earlier the two forms where he actually purchased 06:26
20 two guns in 2012 from that very same Holloman Air 06:26
21 Force Base Exchange, right? 06:26

22 A. Correct. 06:26

23 Q. All right. So, he knew how to get guns 06:26
24 from that Holloman Exchange, right? 06:26

25 A. Right. 06:26

PEX 0087-0098

8 Q. Okay. An examination of the computer he 06:26
9 had been using at the facility revealed that Kelley 06:26
10 searched for a map to the bus station, as well as 06:26
11 conducted research on the purchases of -- of weapons 06:26
12 and body armor. 06:26

13 And I showed you that documentation earlier, 06:26
14 as well; do you remember that? 06:26

15 A. You did. 06:26

16 Q. Okay.

17 A. I remember. 06:26

18 Q. Yeah. And so this is getting 06:26
19 communicated. So now we know Commander Hughes at 06:26
20 the LRS, the 49th LRS is also aware of all this 06:26
21 information.

22 And he's putting in here his support, his 06:27
23 statement that it's foreseeable, this is a very 06:27
24 dangerous person? 06:27

25 A. Right.

PEX 0087-0099 06:27

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1 Q. Right? Okay. Paragraph 6, he says -- 06:27
2 Commander Hughes says, The course of conduct by 06:27
3 Kelley leads me to conclude that he will continue to 06:27
4 engage in serious criminal conduct if not confined. 06:27

5 So -- so here, Commander Hughes is saying 06:27
6 unless he's in jail, he's going to commit continued 06:27
7 serious conduct -- criminal conduct, right? 06:27

8 A. Right. 06:27

9 Q. And -- and so, the 49th LRS at Holloman 06:27
10 Air Force Base on June 2012 was certainly aware 06:27
11 that -- that Devin Kelley is -- has probable cause 06:27
12 to believe that he's a threat for serious violence 06:27
13 with weapons, right -- 06:27

14 A. Right. 06:27

15 Q. Okay. Is that -- do you agree with 06:27
16 that? 06:27

17 A. I agree. 06:27

PEX 0087-0100

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23 Q. (By Mr. Alsaffar) I'm handing you 06:32
24 Exhibit No. 21. And I -- and Exhibit No. 21 is also 06:32
25 a charge sheet; is that correct? **PEX 0087-0101** 06:32

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1 A. That is correct. 06:32

2 Q. And this is dated, actually, August 15, 06:32

3 2012? 06:32

4 A. That is correct. 06:32

5 Q. Related to Devin Kelley, correct? 06:32

6 A. Yes, sir. 06:32

15 Q. Okay. And -- and that's okay. I know 06:32

16 it was years ago. But this charge sheet is 06:32

17 indicating an additional Article 128 charge of 06:32

18 assault, against Devin Kelley; correct? 06:32

19 A. That's correct. 06:32

20 Q. So this is a separate charge of assault 06:32

21 on Tessa Kelley his wife with a dangerous weapon, to 06:32

22 wit, a loaded firearm, right? 06:33

23 A. That's correct. 06:33

PEX 0087-0102

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4 Q. All right. And so this would have 06:33
5 been -- by this time, as well, August 15, 2012, 06:33
6 probable cause, Air Force knew they had probable 06:33
7 cause to believe that Devin Kelley had committed 06:33
8 this additional assault charge because they had 06:33
9 indicted him for it? 06:33

10 A. Right. 06:33

PEX 0087-0103

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2 Q. So the -- so when a government agency 06:39
3 actually fails to report this criminal-conviction 06:39
4 data on felons, dangerous felons, like Devin Kelley, 06:39
5 that's unnecessarily exposing the public to a -- an 06:39
6 increased risk of harm, isn't it? 06:39

7 MR. FURMAN: Objection to form; you can 06:39
8 answer. 06:39

9 A. I would agree, yes. 06:39

16 Q. -- right? Okay. And, in -- in 06:39
17 particular with Devin Kelley, not only was he a 06:39
18 convicted felon who -- who had a felony that should 06:39
19 prevent him from legally obtaining firearms, but the 06:39
20 Air Force also knew by the time of his conviction 06:39
21 that he was also a convicted felon, he had a 06:39
22 particular -- a particular habit of threatening gun 06:39
23 violence and mass-shooting violence, right? 06:39

24 MR. FURMAN: Objection to form; you can 06:39
25 answer. 06:39

PEX 0087-0104 06:40

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1 A. So, yes, there's -- there's clearly
2 evidence that he had made those kind of
3 mass-shooting threats.

4 Q. (By Mr. Alsaffar) Right. And so, by
5 November 11 -- November 2012, the Air Force -- and
6 all the commands that are listed here were aware
7 that, not only is he a convicted felon and the type
8 of charges which should prevent him from legally
9 buying a firearm, but this particular person, Devin
10 Kelley, has also made several forms of threats of
11 gun violence and mass-shooting gun violence prior to
12 the conviction, right?

13 A. Correct.

PEX 0087-0105

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(Deposition Exhibit 23 was marked for
identification.)

Q. Okay. During -- about this time frame,
and I think this is one of the documents you
specifically reviewed prior to your deposition, but
I want to show you Exhibit No. 23 --

A. Okay.

Q. -- which is Bates 13324.

A. Yes, sir.

Q. So, this is about a week before -- a
week or so before you meet with Devin Kelley?

PEX 0087-0106

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1 his release from jail, correct? 06:43

2 A. Yes, sir. 06:43

3 Q. And it's March 22, 2013. You sent this 06:43

4 memo to the Security Forces Division, correct? 06:43

5 A. Right. 06:43

17 Q. Okay. So this is -- and just so the 06:44

18 record's clear, you're sending this memorandum to

19 the 49th Security Forces Squadron at Holloman Air 06:44

20 Force Base? 06:44

21 A. Right, yeah, to a -- to a specific unit 06:44

22 within that squadron. 06:44

23 Q. And the subject is "Conditional Barment 06:44

24 Request for Devin Kelley," right? 06:44

25 A. Yes, sir. 06:44

PEX 0087-0107

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1 Q. And I didn't -- I didn't even point this 06:44
2 out. This is a memo you wrote and that's your 06:44
3 signature at the bottom, Robert Bearden, Commander, 06:44
4 49th LRS, right? 06:44

5 A. So, I -- I signed it. I'm pretty sure 06:44
6 my First Sergeant wrote it for me --

7 Q. Okay.

8 A. -- but yes, that is my signature; it's 06:44
9 my memo. 06:44

10 Q. Okay. And -- and you were -- you were 06:44
11 agreeing with the content of this by signing it? 06:44

12 A. Correct. 06:44

13 Q. Okay. Can you tell me first what a 06:44
14 "conditional barment request" means? 06:44

15 A. So, you know, we have the authority to 06:44
16 bar individuals from the base. 06:44

17 Q. Um-hum. 06:44

18 A. And so, what I'm asking for here is that 06:44
19 essentially that he be barred from the base with a 06:45
20 very unique, discrete exception to be on the base to 06:45
21 be out-processed. 06:45

PEX 0087-0108

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9 Q. Is it fair to say that, at this point,
10 what you're trying to do is protect the people
11 inside the base from Devin Kelley?

12 A. Yes. Specifically, because he had
13 threatened to shoot squadron leadership, I felt like
14 we needed some extra protection.

06:46

06:46

06:46

06:46

06:47

06:47

PEX 0087-0109

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2 Q. Now -- and you mentioned in this memo 06:49
3 that, specifically, that he not only threatened to 06:49
4 kill his leadership, he had threatened repeatedly to 06:49
5 kill his leadership? 06:49

6 A. Correct. 06:49

7 Q. And go -- also you state a little 06:49
8 farther down that -- I -- you state that, "What they 06:49
9 found was alarming," and you're referring to what he 06:49
10 was doing while he was in a mental institution?

11 A. Right. 06:49

12 Q. "He was searching the Internet for body 06:49
13 armor and guerilla tactics"; do you see that? 06:49

14 A. Yes, sir. 06:49

15 Q. Okay. And now, when we're talking about 06:49
16 searching for weapons, threatening to kill 06:49
17 leadership, searching for body armor, and now
18 guerilla tactics, body armor and guerilla tactics, 06:49
19 weapons, we're all -- this is putting a very 06:49
20 specific picture of mass-shooting-type conduct; fair 06:50
21 to say? 06:50

22 MR. FURMAN: Objection to form. 06:50

23 A. I think that's a fair characterization 06:50
24 of it. 06:50

PEX 0087-0110

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18 Q. So my statement is correct, you 06:50
19 specifically -- you specifically, according to this
20 memo, communicated those concerns directly to the
21 Security Forces commander that you had concerns that 06:50
22 Devin Kelley still posed a threat -- 06:51
23 A. Right. 06:51
24 Q. -- correct?
25 A. Right.

PEX 0087-0111 06:51

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24 Q. (By Mr. Alsaffar) Okay. I'm going to 06:55
25 hand you Exhibit 24. **PEX 0087-0112** 06:55

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5 Q. -- of March 22nd, 2013. Exhibit 24 is 06:55
6 March 27, 2013, "Request for Expulsion and Order Not
7 to Reenter Holloman Air Force Base for Devin 06:55
8 Kelley." 06:55

9 A. Okay. 06:55

10 Q. And this is for the 49th Wing Commander, 06:55
11 which is, I believe two levels above your command? 06:55

12 A. Correct. 06:55

22 Q. All right. I want to take you through 06:56
23 this a little bit. 06:56

24 This seems consistent with what you were 06:56
25 saying in your letter a few days earlier, that 06:56

PEX 0087-0113

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1 essentially, we don't want this guy, Devin Kelley on 06:56
2 this base for an indefinite amount of time? 06:56

3 A. Right. 06:56

25 Q. That's right. And if you look at Devin Kelley, 06:57

PEX 0087-0114

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1 further down on Paragraph 3, towards the bottom, so 06:57
2 under 3 b, Captain McQuillan is stating that 06:57
3 "Additional evidence of Kelley's high risk 06:57
4 unpredictable and criminal behavior includes his 06:57
5 history of mental health issues, his preoccupation
6 with weapons, his verbal declaration that he has 06:57
7 contemplated offensive attack strategies on both Air 06:57
8 Force personnel and organizations (including his
9 leadership and Security Forces), his online research 06:57
10 of body armor and guerilla warfare tactics while a 06:57
11 patient in a military mental health facility, his" 06:57
12 purchase of and purchase -- possession of weapons 06:57
13 "and his successful escaped from a military mental 06:57
14 health facility"; do you see that? 06:58

15 A. I do. 06:58

16 Q. I mean, fair enough. March 27, 2013, 06:58
17 the -- the 49th wing judge JAG -- judge advocate 06:58
18 command is painting a very, very specific picture of 06:58
19 Devin Kelley as a person who could commit mass -- a 06:58
20 mass shooting, violent act -- 06:58

21 MR. FURMAN: Objection to form. 06:58

22 Q. (By Mr. Alsaffar) -- do you agree with 06:58
23 that? 06:58

24 MR. FURMAN: Same objection. 06:58

25 Q. (By Mr. Alsaffar) Go ahead. **PEX 0087-0115** 06:58

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1 A. Can -- ah, yes, I agree.

06:58

5 Do you remember how we were talking about the
6 various sort of Air Force departments who had
7 specific knowledge of the variety of violent acts
8 and threats that Devin Kelley had made?

06:58

06:58

06:58

06:59

9 We talked about AFOSI Detachment 225; we
10 talked about the -- your squadron, 49 LRS, 49th
11 Security Forces, the Family Advocacy Program for the
12 high risk violence team, and now we know also the
13 49th Wing judge advocate also has evidence and
14 knowledge of the high risk for violence and the
15 potential for mass violence that Devin Kelley's
16 capable of, right?

06:59

06:59

06:59

06:59

06:59

06:59

06:59

06:59

06:59

17 A. Correct.

23 (Deposition Exhibit 25 was marked for
24 identification.)

06:59

25 Q. (By Mr. Alsaffar) So a couple of days

PEX 0087-0116

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1 later, so now we're a week after your letter or 06:59
2 request for -- for a barment is March 29th, 2013; do 06:59
3 you see that? 07:00

4 A. I do. 07:00

5 Q. Sorry. And it's -- it's actually 07:00
6 directed to Devin Kelley from the 49th Wing 07:00
7 Commander, correct? 07:00

8 A. Yes, sir. 07:00

9 Q. And it's -- states that it's signed by 07:00
10 Andrew Croft, Colonel Croft? 07:00

11 A. Correct. 07:00

12 Q. I believe you told me about him earlier? 07:00

13 A. Right, Wing Commander. 07:00

14 Q. Wing Commander. That's a command above 07:00
15 you, correct, when you were at Holloman -- 07:00

16 A. Yeah, two above me. 07:00

20 Q. Okay. And he states that effect -- in 07:00
21 Paragraph 2, "Effective immediately upon receipt of 07:00
22 this notice, you are ordered not to enter or reenter 07:00
23 or be found within the limits of the United States 07:00
24 military installation of Holloman Air Force Base, 07:00
25 New Mexico, for an indefinite period of time." 07:00

PEX 0087-0117

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1 A. Yes, sir.

07:00

10 Q. There you go. Okay. Thank you for that
11 clarification. So, at least as of March 29th, 2013,
12 several commanders now at Holloman Air Force Base
13 were saying, Devin Kelley, you're not allowed into
14 this space because you're a threat to -- to people
15 in this space, and we're -- we're not allowing you
16 here indefinitely?

07:01

07:01

07:01

07:01

07:01

07:01

17 A. Right.

07:01

PEX 0087-0118

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Q. (By Mr. Alsaffar) Handing you Exhibit
No. 26. And this is a "Defense Manpower Data Center
Installation Access Record" relating to Devin
Kelley. It's Bates numbered 15641.

And I want you to go to 15642, the second
page. So you don't have to read all this. Now,
this is relating to Devin Kelley and his ID card and
attempts to access the base -- the various bases,
Air Force Bases.

A. Okay.

PEX 0087-0119

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7 Q. And -- and even if the ID was 07:03
8 accidentally not taken from him, would it -- would 07:03
9 it be the process for the base, if they enter a 07:03
10 barment order and an order not to enter, that they 07:03
11 would put an alert saying, this person, even if they 07:03
12 have an ID, is not allowed in? 07:03

13 A. Right. They would scan it and then get 07:03
14 a warning up that they weren't allowed. 07:03

21 Q. Okay? So, the first paragraph says, 07:03
22 January 24th, 2018 (sic), Scott Ulrich, Director, 07:03
23 Physical Security/Law Enforcement Defense Human
24 Resources Activity, Defense Manpower Data Center 07:04
25 provided the Department of Defense OIG a 07:04

PEX 0087-0120

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1 Installation Access Log Entries --

07:04

2 A. Okay.

07:04

3 Q. -- associated to Devin Kelley.

07:04

4 A. Okay.

07:04

5 Q. So that's what this document is. If you
6 look on the second page, under April 9th, 2013,
7 "AGENT NOTE - Mr. Ulrich opined that Devin Kelley,
8 or someone using his assigned ID credential,
9 attempted to gain access to Holloman Air Force Base
10 and was subsequently denied due to the existing
11 barment"; do you see that?

07:04

07:04

07:04

07:04

07:04

07:04

07:04

12 A. I do.

07:04

13 Q. So, on April 9th, 2013, either Devin
14 Kelley or someone who somehow got access to his ID
15 card was trying to get back on the base --

07:04

07:04

07:04

16 A. Right.

07:04

17 Q. -- right? Okay. Next -- No. 12,
18 August 26th, 2015, so we're two years later; do you
19 see that? No. 12?

07:04

07:04

07:04

20 A. Oh, yeah, I'm sorry. Yes, now I see it.

07:04

21 Q. This is San Antonio Air Force Base.
22 This is actually just about an hour outside of
23 Sutherland Springs, Texas, okay? Just so you know.

07:04

07:04

07:05

24 "AGENT NOTE -- Mr. Ulrich opined that Devin
25 Kelley, or someone using his assigned ID credential,

07:05

PEX 0087-0121

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1 attempted to gain access to San Antonio Air Force 07:05
2 Base at the Visitor Center and was subsequently
3 denied due to the existing barment"; do you see 07:05
4 that? 07:05

5 A. I do. 07:05

6 Q. So we have an August 26th, 2015, either 07:05
7 Devin Kelley or someone who's -- again, somehow gets 07:05
8 ahold of the ID was trying to access the Air Force 07:05
9 base when they shouldn't have, right? 07:05

10 A. Right. 07:05

11 Q. Okay. And then if you look down, the 07:05
12 next entry, February 17, 2016, Records accessed 07:05
13 Holloman Air Force Base. AGENT NOTE - Mr. Ulrich 07:05
14 opined that Devin Kelley, or someone using his 07:05
15 assigned ID credential, attempted to gain access to 07:05
16 Holloman Air Force Base and was denied due to 07:06
17 debarment; do you see that? 07:06

18 A. I do. 07:06

19 Q. Okay. So we have three different 07:06
20 attempts with Devin Kelley, or somebody who got 07:06
21 ahold of his ID was trying to get -- get on base, 07:06
22 get on to a place he was barred from entering, 07:06
23 right? 07:06

24 A. Correct. 07:06

PEX 0087-0122

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17 Q. -- that these things, making sure the 07:18
18 FBI was aware of this dangerous person -- 07:18
19 A. Right. 07:18
20 Q. -- both through fingerprint access and 07:18
21 also his convictions, that's designed to make sure 07:18
22 that when you guys released him to the public, which 07:18
23 you did, right? That's what you-all did, you had to 07:18
24 release him to the public? 07:18
25 A. Correct. 07:18

PEX 0087-0123

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1 Q. This was the safety net for the rest of 07:18
2 us. Those of us out there in Texas, and Sutherland 07:18
3 Springs, as well, to protect those folks from Devin 07:18
4 Kelley, right? 07:18
5 A. I would -- I would agree with that 07:18
6 characterization. 07:18

PEX 0087-0124

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CERTIFICATION

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

I, Dawn Gage, Professional Court Reporter and Notary Public for the State of Colorado, do hereby certify that previous to the commencement of the examination, the said LIEUTENANT COLONEL ROBERT C. BEARDEN, was duly sworn by me to testify the truth in relation to the matters in controversy between said parties.

I further certify that said videotaped deposition was taken in shorthand by me and was reduced to typewritten form by computer-aided transcription, that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not an attorney nor counsel nor in any way connected with any attorney or counsel for any of the parties to said action or otherwise interested in its events.

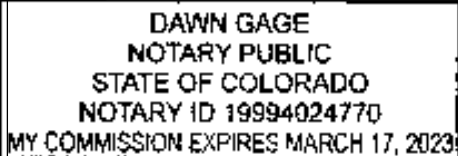
I further certify that, pursuant to Rule 30(f)(1), review was requested.

IN WITNESS WHEREOF, I hereunto affix my hand and notarial seal this 31st day of January, 2020.

My commission expires March 17, 2023

Dawn Gage

DAWN GAGE
Professional Court Reporter



PEX 0087-0125